

FIRST REGULAR SESSION

# SENATE BILL NO. 192

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CROWELL.

Pre-filed December 19, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

0208S.011

## AN ACT

To amend chapter 304, RSMo, by adding thereto four new sections relating to the enforcement of traffic control signal violations, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 304, RSMo, is amended by adding thereto four new sections, to be known as sections 304.286, 304.287, 304.289, and 304.290, to read as follows:

**304.286. 1. For the purposes of sections 304.286 to 304.290, the following terms mean:**

(1) "Agency", any county, city, town, village, municipality, state agency, or other political subdivision of this state that is authorized to issue a notice of violation for a violation of a state or local traffic law or regulation;

(2) "Automated photo red light enforcement system" or "system", a device consisting of a camera or cameras and vehicle sensor or sensors, installed to work in conjunction with a traffic control signal;

(3) "Owner", the owner of a motor vehicle as shown on the motor vehicle registration records of the Missouri department of revenue or the analogous department or agency of another state or country. The term "owner" includes:

(a) A lessee of a motor vehicle under a lease of six months or more; or

(b) The lessee of a motor vehicle rented or leased from a motor vehicle rental or leasing company, but does not include the motor vehicle rental or leasing company itself.

If there is more than one owner of the motor vehicle, the primary owner will be deemed the owner. If no primary owner is named, the

21 first-listed owner will be deemed the owner;

22 (4) "Recorded image", an image recorded by an automated photo  
23 red light enforcement system that depicts the rear view of a motor  
24 vehicle and is automatically recorded by a high-resolution camera as  
25 a digital image;

26 (5) "Steady red signal indication violation" or "violation", a  
27 violation of a steady red signal indication under sections 304.271 and  
28 304.281 or substantially similar agency ordinance or traffic laws;

29 (6) "Traffic control signal", a traffic control device that displays  
30 alternating red, yellow, and green lights intended to direct traffic as  
31 when to stop at or proceed through an intersection.

32 2. No agency shall use an automated photo red light enforcement  
33 system unless the system is capable of producing at least two high-  
34 resolution color digital recorded images that show:

35 (1) The traffic control signal while it is emitting a steady red  
36 signal;

37 (2) The offending vehicle; and

38 (3) The rear license plate of the offending vehicle.

39 One of the images must be of sufficient resolution to show clearly,  
40 while the vehicle is in the intersection and while the traffic signal is  
41 emitting a steady red signal, all three elements set forth in subdivisions  
42 (1), (2), and (3) of this subsection.

43 3. The automated photo red light enforcement system shall not  
44 capture images of the front license plate of the motor vehicle.

45 4. The automated photo red light enforcement system shall  
46 utilize a video recording component which shall record the period  
47 during which the two violation images were captured, as well as at  
48 least five seconds before and at least five seconds after the violation  
49 event.

50 5. No system may photograph or otherwise capture an image of  
51 the driver's face.

52 6. Agencies that utilize automated photo red light enforcement  
53 systems to detect and enforce steady red signal indication violations  
54 are subject to the conditions and limitations specified in sections  
55 304.286 to 304.290.

56 7. Prior to activation of the system at an intersection:

57 (1) If not already present, the roadway first must be clearly

58 marked with a white stripe indicating the stop line and the perimeter  
59 of the intersection;

60 (2) Warning signs shall be installed within five hundred feet of  
61 the white stripe indicating the stop line;

62 (3) Signal phase timings at intersections equipped with a system  
63 shall be certified by the Missouri department of transportation or other  
64 such appropriate governmental agency before the automated photo red  
65 light enforcement systems may be activated for enforcement  
66 purposes. Any such timing shall be set by the department or other such  
67 appropriate agency and shall be consistent with traffic engineering  
68 standards. In no case, however, shall a private vendor have the ability  
69 to control the signal phase timing connected with a system.

70 8. Prior to installing the automated photo red light enforcement  
71 system, the agency shall give notice of the intersection where the  
72 system will be located and of the date on which the system will begin  
73 to monitor the intersection. The agency shall give reasonable notice at  
74 least fourteen days prior to the installation of the system in a  
75 newspaper of general circulation throughout the political subdivision  
76 served by the agency.

77 9. Any agency that implements a system shall submit an annual  
78 report to the Missouri department of transportation. The report shall  
79 include, at a minimum:

80 (1) The number of intersections enforced by active systems;

81 (2) The number of notices of violation mailed;

82 (3) The number of notices of violation paid;

83 (4) The number of hearings; and

84 (5) The total revenue collected as a result of the program.

85 10. Within three years of the establishment of an automated  
86 photo traffic law enforcement program, the implementing jurisdiction  
87 shall initiate a formal evaluation of the program to determine the  
88 program's impact on traffic safety. That evaluation shall be completed  
89 within one year.

90 11. An agency that establishes an automated photo red light  
91 enforcement system may enter into an agreement or agreements for the  
92 purpose of compensating a private vendor to perform operational and  
93 administrative tasks associated with the use of such system. Any  
94 compensation paid to a private vendor shall not be based upon the

95 number of violations mailed, the number of citations issued, the  
96 number of violations paid, or the amount of revenue collected by the  
97 agency. The compensation paid to a private vendor shall be based upon  
98 the value of the equipment and the services provided or rendered in  
99 support of the system.

304.287. 1. Before a notice may be issued, all violation images  
2 produced by a system shall be reviewed and approved by a law or code  
3 enforcement officer employed by the agency in which the alleged  
4 violation occurred. Such review and acceptance shall be based on a full  
5 review of the images that clearly demonstrate a violation.

6 2. Based on inspection of recorded images produced by a system,  
7 a notice of violation or copy of such notice alleging that the violation  
8 occurred and signed manually or digitally by a duly authorized agent  
9 of the agency shall be evidence of the facts contained therein and shall  
10 be admissible in any proceeding alleging a violation under sections  
11 304.286 to 304.290.

12 3. An agency shall mail or cause to be mailed a notice of  
13 violation by certified mail to the owner of the motor vehicle, which  
14 notice shall include, in addition to the requirements of supreme court  
15 rule no. 37:

16 (1) The name and address of the owner of the vehicle;

17 (2) The registration number of the motor vehicle involved in the  
18 violation;

19 (3) A copy of the two recorded images and a zoomed and cropped  
20 image of the vehicle license plate which was extracted from one of the  
21 two images;

22 (4) Information advising the registered owner of how he or she  
23 can review the video, photographic, and recorded images that captured  
24 the alleged violation. The agency may provide access to the video and  
25 other recorded images through the Internet. If access to the video and  
26 other recorded images is provided through the Internet, the agency  
27 shall ensure that such video and recorded images are accessible only  
28 to the registered owner through a password-protected system;

29 (5) A manually or digitally signed statement by a law or code  
30 enforcement officer employed by the agency that, based on inspection  
31 of the two recorded images and video sequence, the motor vehicle was  
32 operated in violation of a traffic control device or prevailing traffic

33 laws or statutes;

34 (6) Information advising the registered owner of the manner,  
35 time, and place in which liability as alleged in the notice of violation  
36 may be contested, and warning that failure to pay the civil penalty or  
37 to contest liability in a timely manner is an admission of liability; and

38 (7) Information advising the registered owner that he or she may  
39 file an affidavit under subsection 8 of this section stating that he or she  
40 was not the operator of the vehicle at the time of the violation.

41 4. A notice of violation issued under this section shall be mailed  
42 no later than three business days after the violation was recorded by  
43 the automated photo red light enforcement system.

44 5. The civil penalties and court costs imposed for a violation  
45 detected and enforced pursuant to a system shall not exceed an amount  
46 that would have been imposed if the violation had been detected by a  
47 law enforcement officer present when the violation occurred. In no  
48 event shall the combined fine and court costs exceed one hundred  
49 dollars.

50 6. Notwithstanding any provision of law to the contrary,  
51 including but not limited to, sections 304.271, 304.281, 304.361, and  
52 304.570, any person who commits a steady red light violation that is  
53 detected and enforced through an automated photo red light  
54 enforcement system is guilty of an infraction. A penalty imposed by an  
55 agency for a violation detected pursuant to a system shall not be  
56 deemed a moving violation and shall not be made part of the operating  
57 record of the person upon whom such liability is imposed, nor shall  
58 such imposition of a penalty be subject to merit rating for insurance  
59 purposes and no surcharge points shall be imposed in the provision of  
60 motor vehicle insurance coverage. In no case shall points be assessed  
61 against any person under section 302.302, RSMo, for a violation  
62 detected by an automated photo red light enforcement system.

63 7. Payment of the established fine and any applicable civil  
64 penalties shall operate as a final disposition of the case. Payment of  
65 the fine and any penalties, whether before or after hearing, by one  
66 motor vehicle owner shall be satisfaction of the fine as to all other  
67 motor vehicle owners of the same motor vehicle for the same violation.

68 8. In the prosecution of a steady red signal indication violation  
69 under sections 304.286 to 304.290, prima facie evidence that the vehicle

70 described in the notice of violation issued pursuant to this section was  
71 operated in violation of sections 304.286 to 304.290, together with proof  
72 that the defendant was at the time of such violation the owner of the  
73 vehicle, shall constitute in evidence a rebuttable presumption that such  
74 owner of the vehicle was the person who committed the violation. Such  
75 presumption shall be rebutted if the owner of the vehicle files an  
76 affidavit by regular mail with the clerk of the court that he or she was  
77 not the operator of the vehicle at the time of the alleged violation or  
78 testifies in open court under oath that he or she was not the operator  
79 of the vehicle at the time of the alleged violation. Such presumption  
80 shall also be rebutted if a certified copy of a police report, showing that  
81 the vehicle had been reported to the police as stolen prior to the time  
82 of the alleged violation of this section, is presented to the court  
83 adjudicating the alleged violation.

304.289. 1. For each automated photo red light enforcement  
2 system that is installed at an intersection by an agency, during the first  
3 thirty days the system is monitoring an intersection, the agency shall  
4 issue only warning notices and shall not issue any ticket or citation for  
5 any violation detected by the system.

6 2. No agency shall employ the use of a photo radar system to  
7 enforce speeding violations. As used in this subsection, the term "photo  
8 radar system" shall mean a device used primarily for highway speed  
9 limit enforcement substantially consisting of a radar unit linked to a  
10 camera, which automatically produces a photograph of a motor vehicle  
11 traveling in excess of the legal speed limit.

304.290. Photographic and other recorded evidence obtained  
2 through the use of automated photo red light enforcement devices shall  
3 be maintained according to law and shall be maintained by the  
4 appropriate agency for a period of at least three years. Such  
5 photographic and other recorded evidence obtained through the use of  
6 an automated photo red light enforcement system shall be confidential  
7 and shall not be deemed a "public record" under section 610.010, RSMo,  
8 and shall not be subject to the provisions of section 109.180, RSMo, or  
9 chapter 610, RSMo.